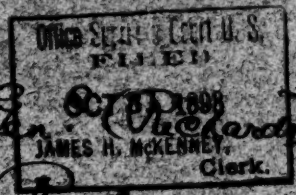


No. 448.

Brief of Atty. Gen. (Richard) for
Respondent.



Filed Oct. 31, 1898.

In the Supreme Court of the United States.

OCTOBER TERM, 1898.

MARCUS A. SPURR, PETITIONER, }
v. } No. 448.
THE UNITED STATES.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF
CERTIORARI.

In the Supreme Court of the United States.

OCTOBER TERM, 1898.

MARCUS A. SPURR, PETITIONER,	} No. 448.
<i>v.</i>	
THE UNITED STATES.	

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI.

Spurr, formerly president of the Commercial National Bank of Nashville, Tenn., was, in April, 1896, convicted in the circuit court of the United States for the middle district of Tennessee, of a violation of section 5208, Revised Statutes, for unlawfully certifying checks.

The trial was before Judge Severans, and was the third trial. The first trial took place before Judge Sage, and the second before Judge Taft, both resulting in disagreements of the jury. After conviction, a motion in arrest of judgment was argued, which was overruled in December, 1896, and sentence pronounced. The case was then carried on error to the circuit court of appeals, Judges Barr, Ricks, and Swan sitting, which, on June 1, 1898, affirmed the judgment of the circuit court. A motion for rehearing was overruled on October 8, after which this application for a writ of certiorari was made to this court.

It is unnecessary to repeat what I have said in the Gardes and Gallot cases in opposition to the granting of writs in cases of this nature. Spurr's defense was conducted with great zeal and ability, and every question that could be was raised and reserved. All these questions were brought before the circuit court of appeals, and there fully argued and carefully considered. A reading of the opinion of the court (87 Fed. Rep., 701) is convincing upon the point that no novel or important question was or is involved, and that no reason exists for taking this case out of the law that makes the decision of the circuit court of appeals final. The exceptions were the usual ones taken in such cases—exceptions to the admission of testimony, exceptions to certain charges of the court, and certain refusals to charge as requested. The decision of the circuit court of appeals upon these questions was clearly correct. There is nothing in the application for the writ of certiorari nor in the record in the case which in any wise successfully impugns the concluding statement of the circuit court of appeals (87 Fed. Rep., 714):

A careful examination of the record satisfies us that the defendant has had a fair trial, and that, both in the rulings upon the evidence and in the submission of the case to the jury, his rights were carefully protected.

JOHN K. RICHARDS,
Solicitor-General.

OCTOBER 26, 1898.